

## REMARKS

Claims 1, 2, 4, 5, 8, 36, 37, 39, and 40 remain in the referenced application. Claims 3, 6, 7, 9-35, 38, 41, and 42 have been withdrawn from consideration. Claims 1, 2, 4, 5, 8, 36, 37, 39, and 40 have been rejected by the Examiner. Applicant still respectfully contends that McGowan fails to teach backflushing with purified water. The Examiner contends that membranes perform a filtration function. The Examiner further contends that Hisada's membrane is a filter because it performs a filtration function.

The Examiner states that Applicant has not limited the term "purified water" to water having dissolved solids removed therefrom, as Applicant has utilized the word "includes" in the definition of "purified water." Since the Examiner does not consider Applicant's definition limiting, Applicant, accordingly, has amended the specification to recite, "Purified water in this preferred embodiment is water having a lower total dissolved solids reading than the water being filtered, preferably with a total dissolved solids reading fifty percent lower than that of the water being filtered, more preferably with a total dissolved solids reading eighty percent lower than that of the water being filtered, and still more preferably with a total dissolved solids reading ninety five percent lower than that of the water being filtered." Applicant's refinement of the specification is one of clarification, and is therefore, limiting in nature.

Applicant respectfully asserts that "conforming and clarifying amendments do not constitute new matter. As deemed in *Austin v. Marco Dental Prod., Inc.*, 560 F.2d 966, 972, 195 USPQ 529, 534 (9<sup>th</sup> Cir. 1977)., 'The amendment in question did not constitute new matter but rather eliminated old matter, claims which Austin believed had been described too broadly and, therefore, relied on prior art.'" Applicant asserts that applicant's definition of purified water has moved from, "'including' water having a lower total dissolved solids reading than the water

being filtered, preferably with a total dissolved solids reading fifty percent lower than that of the water being filtered, more preferably with a total dissolved solids reading eighty percent lower than that of the water being filtered, and still more preferably with a total dissolved solids reading ninety five percent lower than that of the water being filtered” to “is’ water having a lower total dissolved solids reading than the water being filtered, preferably with a total dissolved solids reading fifty percent lower than that of the water being filtered, more preferably with a total dissolved solids reading eighty percent lower than that of the water being filtered, and still more preferably with a total dissolved solids reading ninety five percent lower than that of the water being filtered.” As the term “includes” is broader than the term “is,” going from “includes” to “is” in the specification is most certainly restricting. Applicant contends that Applicant’s amendment to the specification merely clarifies and makes more definite that which was already disclosed in the specification.

As the term “purified water” is now clearly defined in the specification, Applicant respectfully asserts that Applicants arguments of Response “A” of the parent case regarding the differences between “purified water” and “filtered water” should be persuasive.

Nevertheless, claim 1 stands rejected under 35 U.S.C. §102(e) as being anticipated by McGowan (U.S. Patent No. 6,562,246 - hereinafter referred to as “McGowan”). The Examiner asserts that McGowan discloses a method of cleansing a filter including providing a source of purified water (e.g., via filter 14 stored in accumulator 16), and exposing the filter to purified water (e.g., via backwashing as shown in Fig. 2). Applicant contends that McGowan does not teach the method steps of Applicant’s invention including “providing a source of purified water, and exposing the filter to the purified water.” McGowan teaches a “BACKFLUSH SYSTEM” that “filters” a fluid in a flow path, diverts a small portion of the “filtered fluid” from the flow

path to a pumping device, pumps the diverted fluid into a pressurized accumulator, and then utilizes the fluid stored in the accumulator as a backflush media in a high pressure backward flow through the filter. Applicant asserts that McGowan's filter does not produce "purified water" as defined by Applicant's disclosure, and therefore, cannot anticipate Applicant's method steps of exposing a filter to purified water.

Applicant reasserts that one of ordinary skill in the art will clearly recognize that a "filter" does not produce "purified water" as defined in Applicant's amended specification. Filters remove particles suspended in a fluid. While they do cleanse the water passing through the filter, they are incapable of purifying the water. The purification of water occurs on the molecular level. Illustratively, water purification using a steam distillation process requires the water to be boiled to evaporate the water molecules, thereby leaving any impurities in the unevaporated portion. The steam is then recaptured and condensed without the impurities. In an alternate purification process, reverse osmosis cartridges include separation membranes that pass water molecules, but do not pass any remaining matter. As such, the water purification processes remove the dissolved solids and the suspended particles, wherein the filters remove only the suspended particles. Accordingly, filters and purification cartridges provide different functions, and are clearly not interchangeable.

McGowan, accordingly, does not disclose utilizing purified water as a cleansing agent. McGowan clearly recites use of a "filtered fluid" as a backflushing media. Applicant contends that Applicant's invention discloses utilizing "purified water" as a cleansing agent, and as a backflushing media. Applicant reasserts that "filtered fluid" and "purified water" are not interchangeable terms. Applicant's invention is drawn to the specific use of "purified water" because it has an increased solubility, and therefore, is more effective in the removal of sediment

from a filter. Applicant respectfully asserts that “purified water” in Applicant’s amended specification is defined as “water having a lower total dissolved solids reading than the water being filtered, preferably with a dissolved solids reading fifty percent lower than that of the water being filtered, and more preferably with a total dissolved solids reading ninety five percent lower than that of the water being filtered.” Applicant’s invention further defines purified water as being produced by, “any suitable purification process, such as reverse osmosis, steam distillation or deionization.” As such, McGowan fails to distinctly recite the steps of providing a source of purified water and exposing the filter to the purified water because McGowan teaches only of filtering a fluid, not purifying the fluid. Applicant, therefore, respectfully submits claim 1 is patentable over McGowan.

Claim 2 stands rejected under 35 U.S.C. §102(e) as being anticipated by McGowan. The Examiner asserts that McGowan discloses a filter cartridge 14 that is cleansed by purified water. Applicant respectfully asserts that claim 2 of Applicant’s invention recites cleansing of a filter cartridge with purified water. While McGowan recites backflushing a filter cartridge, he does not teach of cleansing the filter cartridge with purified water. As previously argued, Applicant contends that “filtered fluid” and “purified water” are not interchangeable terms. Applicant’s invention is drawn to the specific use of “purified water” because it has an increased solubility, and therefore, is more effective in the removal of sediment from a filter. Accordingly, Applicant respectfully submits claim 2 is patentable over McGowan.

Claim 8 stands rejected under 35 U.S.C. §102(e) as being anticipated by McGowan. The Examiner asserts that McGowan discloses backwashing the filter with purified water (see Fig. 2). Applicant respectfully reasserts that McGowan does not recite the use of “purified water” as a backflush media. As previously argued, a “filtered fluid” and “purified water” are not identical

in form. Applicant's invention is drawn to the specific use of purified water because it has an increased solubility. McGowan discloses the use of a "filtered fluid" as a backflush media. Applicant therefore asserts that claim 8 is patentable with claim 1.

Claim 36 stands rejected under 35 U.S.C. §102(e) as being anticipated by McGowan. The Examiner asserts that McGowan discloses the method steps of "a) switching an inlet valve 22, a drain valve 46, and a flush valve 36 in a filtered flow path from a primary flow path used for dispensing operations to a secondary flow path, therein allowing purified water into the filtered flow path; b) flowing the purified water in the secondary flow path, wherein the secondary flow path allows the purified water to flow backwards through the filter for a predetermined interval to remove or dissolve filtered media or unclog a filter in the primary flow path; and c) switching the inlet valve 22, the drain valve 46, and the flush valve 36 from the secondary flow path to the primary flow path to resume dispensing operations (See Fig. 1)." Applicant has previously established that McGowan does not recite the use of "purified water" as a backflush media. McGowan teaches the use of a fluid filtered from a flow path for use as the backflush media. Applicant contends that Applicant's invention is drawn to the specific use of purified water because it has an increased solubility, and therefore, is more effective in the removal of sediment from a filter. As McGowan does not teach the use of "purified water" as a backflushing media, McGowan clearly cannot anticipate claims that recite the use of "purified water" as the backflushing media. Accordingly, Applicant asserts that claim 36 is patentable over McGowan.

Claim 37 has been rejected under 35 U.S.C. 102(e) as being anticipated by McGowan. Applicant contends that claim 37 is patentable, as it depends from a claim reciting the use of "purified water" to flow backwards through the filter. McGowan does not teach the use of

“purified water” in his backflush device, and therefore cannot anticipate Applicant’s claims 36 and 37.

Claims 4, 5, 39, and 40 have been rejected under 35 U.S.C. 103(a) as being unpatentable over McGowan in view of Hisada, et al (hereinafter Hisada). The Examiner acknowledges that McGowan fails to specify the flush source as containing water having a lower total dissolved solids reading less than the water being filtered, including at least 50% less. Applicant agrees with the Examiner’s acknowledgement that McGowan fails to specify a flush source containing “purified water,” as McGowan produces “filtered water.” Filtering water does not produce “purified water.” “Purified water” is a product of water purification processes. The Examiner has attempted to combine McGowan and Hisada to create a filter backflush device, wherein the filter produces purified water, such that the filter is backflushed with the purified water.

Applicant respectfully asserts that the replacement of McGowan’s filter with Hisada’s separation membrane creates a device for backflushing Hisada’s separation membrane, not a filter. Claim 1 of Applicant’s invention is drawn to the cleansing of a filter with purified water, not the backflushing of a separation membrane. Applicant exposes a filter to purified water to cleanse the filter because purified water achieves significantly enhanced cleansing as per Applicant’s disclosure on page 5, lines 19-23, and page 6, lines 1-5. As previously argued, a filter is not a separation membrane, and may not be used interchangeably. Thus, the replacement of McGowan’s filter with Hisada’s separation membrane produces a device that backflushes the separation membrane, and does not include a filter.

Alternatively, if the Examiner intended to place Hisada’s separation membrane in series with McGowan’s filter, then the separation membrane could be inserted either before or after McGowan’s filter. If Hisada’s separation membrane is placed in front of McGowan’s filter, then



the filter would be useless, as the filter would be filtering water that has been purified by the separation membrane. If Hisada's separation membrane is placed after McGowan's filter, then McGowan's device produces purified water. However, there is no teaching for placing Hisada's membrane in front of McGowan's filter.

McGowan discloses backflushing a filter with filtered water. Hisada discloses backflushing a membrane with purified water. Consequently, neither McGowan nor Hisada teach of cleansing a filter with purified water. The only disclosure for "cleansing a filter with purified water" is in Applicant's specification. As such, Applicant contends that the combination of McGowan in view of Hisada fails. There is no reason to combine McGowan and Hisada, other than to create Applicant's invention. The combination of McGowan and Hisada is clearly hindsight reconstruction. Accordingly, Applicant respectfully requests that the rejections of claims 4, 5, 39, and 40 be withdrawn, as the combination of McGowan in view of Hisada fails to provide a "filter cleansing device, wherein the flush source contains water having a total dissolved solids reading less than the water being filtered."

The prior art made of record has been reviewed by Applicant and is deemed not to anticipate nor render obvious the claimed invention.

In view of the foregoing, Applicant respectfully requests reconsideration of the rejected claims, and solicits early allowance of the subject application.

Respectfully submitted,

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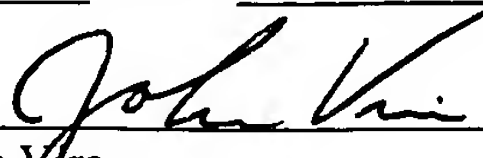
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